

**TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT**

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP, Development Services Director/ (954) 797-1101
Prepared by: Annie Feng, Planner II

SUBJECT: Quasi Judicial Hearing: Variance
V 5-2-03, 2399 S. University Drive, generally located at the northwest corner of Nova Drive and University Drive

AFFECTED DISTRICT: District 2

TITLE OF AGENDA ITEM: V 5-2-03, Gulf University and Nova Drive

The petitioner requests a variance:

1. **FROM:** Section 12-34 (Y)(1) of the Town of Davie Land Development Code which requires a minimum lot area of 43,560 square feet for a lot to be occupied by fuel pump islands, **TO:** reduce the lot area to 40,057 square feet;
2. **FROM:** Section 12-34 (Y)(2) of the Town of Davie Land Development Code which requires a minimum distance of 250 feet between a lot to be occupied by fuel pump islands and any lot of residential use; **TO:** reduce the distance from the subject property to be occupied by the proposed fuel pump islands to a residential property to 25 feet;
3. **FROM:** Section 12-34 (Y)(2) of the Town of Davie Land Development Code which requires a minimum distance of 250 feet between a lot to be occupied by fuel pump islands and any lot occupied for service station purpose; **TO:** reduce the distance to another gas station to approximately 200 feet;
4. **FROM:** Section 12-107 (D)(4) of the Town of Davie Land Development Code which requires a minimum of ten-foot landscape buffer between commercial properties and other abutting properties; **TO:** reduce the landscape buffer adjacent to the commercial property to the north to 4.9 feet.

REPORT IN BRIEF:

The subject site is currently occupied by an existing Mobil gas station with a convenience store, which is legal non-conforming structure in the B-2 zoning district. It is located at the northwest corner of Nova Drive and University Drive, across street from a Shell gas station at the southeast corner of Nova Drive and University Drive. It is 40,705 square feet in area and abuts Longhorn restaurant to the north and condominium buildings to the west. The applicant is proposing to redevelop the site and replace the existing structures with a new convenience store building and eight (8) new fuel pump stations.

The subject site will lose its legal non-conforming status if more than 20 percent of the structure or building is destroyed by any means. The reconstruction shall be in conformity with the current Land Development Code pertaining to the lot size (minimum 43,560 square feet), distance separation from the residential area (minimum 250 feet), and distance separation from other service station (minimum 250 feet). The applicant is requesting variances to reduce the lot size to 40,705 square feet, the distance separation from the existing condominium buildings to 25 feet, and the distance separation to the existing Shell gas station to approximately 200 feet to allow the reconstruction of a new gas station. In addition, the applicant requests to reduce the minimum ten-foot landscaping buffer between the subject site and the Longhorn restaurant site to 4.9 feet in order to place a dumpster enclosure 4.9 feet from the property line.

PREVIOUS ACTIONS: None

CONCURRENCES: At the August 13, 2003 Planning and Zoning Board meeting, the following motions were made:

Mr. McLaughlin made a motion, seconded by Ms. Turin, to approve Variance 1 subject to working with the adjacent property owners to provide landscaping on the other side of the access road (Motion carried 3-1 with Ms. Lee being opposed).

Ms. Lee made a motion, seconded by Ms. Turin, to deny Variance 2 (Motion carried 3-1 with Mr. McLaughlin being opposed).

Mr. McLaughlin made a motion, seconded by Ms. Turin, to approve Variance 3 (Motion carried 3-1 with Ms. Lee being opposed).

Mr. McLaughlin made a motion, seconded by Ms. Turin, to approve Variance 4 (Motion carried 3-1 with Ms. Lee being opposed).

FISCAL IMPACT: N/A

RECOMMENDATION(S): Staff finds that the subject application complete and suitable for transmittal to the Town Council for further consideration.

Attachment(s): Planning Report, Justification letter, Land use map, Subject site and Aerial map.

Application #: V 5-2-03
Exhibit "A"

Revisions: 9/8/03
Original Report Date: 8/1/03

TOWN OF DAVIE
Development Services Department
Planning & Zoning Division Staff
Report and Recommendation

Application Information

Owner:

Name: ExxonMobil Fuel Marketing Company
Address: 3959 Van Dyke Road, Suite 288
City: Lutz, FL 33558
Phone:

Petitioner:

Progressive Development Group, Inc.
4929 Bayshore Blvd.
Tampa, FL 33611
(813) 805-0310

Background Information

Date of Notification: August 6, 2003 **Number of Notifications:** 348 (Noticed at 1,000 feet)

Application History: No deferrals have been requested.

Application Request: Variances

5. **FROM:** Section 12-34 (Y)(1) of the Town of Davie Land Development Code which requires a minimum lot area of 43,450 square feet for a lot to be occupied by fuel pump islands, **TO:** reduce the lot area to 40,057 square feet;
6. **FROM:** Section 12-34 (Y)(2) of the Town of Davie Land Development Code which requires a minimum distance of 250 feet between a lot to be occupied by fuel pump islands and any lot of residential use; **TO:** reduce the distance from the subject property to be occupied by the proposed fuel pump islands to a residential property to 25 feet;
7. **FROM:** Section 12-34 (Y)(2) of the Town of Davie Land Development Code which requires a minimum distance of 250 feet between a lot to be occupied by fuel pump islands and any lot occupied for service station purpose; **TO:** reduce the distance to another gas station to approximately 200 feet;
8. **FROM:** Section 12-107 (D)(4) of the Town of Davie Land Development Code which requires a minimum of ten-foot landscape buffer between commercial properties and other abutting properties; **TO:** reduce the landscape buffer adjacent to the commercial property to the north to 4.9 feet for 95 lineal feet.

Address/Location: 2399 S. University Drive, Generally located at the northwest corner of Nova Drive and University Drive

Future Land Use Plan Designation: Commercial

Zoning: B-2 (Community Business District)

Existing Use: Gas Station and Convenience store

Proposed Use: Gas Station and Convenience store

Parcel Size: .92 Acres (40,705 square feet)

	<u>Surrounding Uses:</u>	<u>Surrounding Land Use Plan Designation:</u>
North:	Restaurant (Longhorn)	Commerce
South:	Nova Drive, Funeral Home	Commercial
East:	Restaurant (Pollo Tropical)	Commercial
West:	Condo Buildings	Residential (10DU/AC)

Surrounding Zoning:

North:	B-2 (Community Business District)
South:	B-2 (Community Business District)
East:	B-2 (Community Business District)
West:	R-4A (Old Code) (Planned Apartment District)

Zoning History

Previous Request on same property:

The plat, Gulf University and Nova, was approved by the Broward County Board of Commissioners on August 29, 1979.

The site plan for the existing Mobil Gas Station was approved by the Town Council on August 15, 1979.

A Delegation Request (DG 5-3-03) has been submitted to reduce the recorded 30-foot landscape buffer along the west property line to ten (10) feet as required by the current Land Development Code.

A site plan (SP 7-12-03) has been submitted concurrent with this request.

Application Details

The subject site is currently occupied by an existing Mobil gas station with a convenience store, which is legal non-conforming structure in the B-2 zoning district. It is located at the northwest corner of Nova Drive and University Drive, across street from a Shell gas station at

the southeast corner of Nova Drive and University Drive. It is 40,705 square feet in area and abuts Longhorn restaurant to the north and condominium buildings to the west. The applicant is proposing to redevelop the site and replace the existing structures with a new convenience store building and eight (8) new fuel pump stations.

The subject site will lose its legal non-conforming status if more than 20 percent of the structure or building is destroyed by any means. The reconstruction shall be in conformity with the current Land Development Code pertaining to the lot size (minimum 43,560 square feet), distance separation from the residential area (minimum 250 feet), and distance separation from other service station (minimum 250 feet). The applicant is requesting variances to reduce the lot size to 40,705 square feet, the distance separation from the existing condominium buildings to 25 feet, and the distance separation to the existing Shell gas station to approximately 200 feet to allow the reconstruction of a new gas station. In addition, the applicant requests to reduce the minimum ten-foot landscaping buffer between the subject site and the Longhorn restaurant site to 4.9 feet in order to place a dumpster enclosure 4.9 feet from the property line.

Applicable Codes and Ordinances

1. Section 12-34 (Y)(1) of the Town of Davie Land Development Code which requires a minimum lot area of 43,450 square feet for a lot to be occupied by fuel pump islands,
2. Section 12-34 (Y)(2) of the Town of Davie Land Development Code which requires a minimum distance of 250 feet between fuel pump islands and any lot of residential use;
3. Section 12-34 (Y)(2) of the Town of Davie Land Development Code which requires a minimum distance of 250 feet between a lot to be occupied by fuel pump islands and any lot occupied for service station purpose
4. Section 12-107 (D)(4) of the Town of Davie Land Development Code which requires a minimum of ten-foot landscape buffer between commercial properties and other abutting properties;
5. Section 12-309, Review for variance.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 4. This Planning Area is bordered by SR 84 on its north, University Drive on its east, Flamingo Road on its west, and an irregular border on its south that corresponds to Nova Drive and, SW 14 Street and the Village of Harmony Lakes development. A portion of the University Drive and SR 84 commercial corridors are included in this area, as are several planned residential communities typically developed at five dwellings per acre, but in some cases up to ten, including Arrowhead Golf Course and Country Club, Village of Harmony Lakes, West ridge, the Ridgeview Lakes developments, Scarborough, Village at Pine Lakes, and the Pine Island Ridge, Park City and

Rexmere Village developments, located within an area between Nob Hill Road and Pine Island Road.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 99.

Applicable Goals, Objectives and Policies:

Policy 7-1: The Town shall endeavor to expand its economic base through expansion of the commercial sector of the economy.

Policy 7-3: Zoning regulations shall provide for varying intensities of commercial development and direct application of appropriate districts where compatible with adjacent and surrounding residential uses.

Policy 17-1: Lands designated for non-residential use shall be located in a manner which facilitates development, but does not adversely impact existing and designated residential areas.

Staff Analysis

The existing Mobil gas station was developed in 1980 with four (4) fuel pumps, a 1500-square foot convenient store, and a separate carwash structure. The existing structures are legal non-conforming under a B-2 zoning district. The applicant is proposing to demolish the existing structures, thereby losing its legal non-conforming status, and reconstruct eight (8) fuel pumps and a 3,925 square feet convenience store on the site. The variances for the lot size, distance separations between the development and the residential area, and the existing service station are required for the submitted site plan. The use of the parcel will not change. After the redevelopment, the site will meet the current Land Development Code in all regulations except for these requested variances.

- Variance 1: The subject site is 40,705 square feet in area, and has a 200-foot frontage on Nova Drive and a 145-foot frontage on University Drive. The property is a legal lot of record and platted, although under the current code, the minimum lot size required for a gas station is 43,560 square feet.
- Variance 2: The subject site is 25 feet from a condominium building to the west. There is a 25-foot access easement between the properties and a six-foot high concrete wall along the west property line. A ten-foot landscaping area with Cocoplum hedges and shade trees will be provided outside the wall. The existence of the easement and the wall, along with the proposed landscaping will minimize the impact of the variance to the residential area.
- Variance 3: The subject site is approximately 200 feet from the Shell gas station at the southeast corner of University Drive and Nova Drive. Since no use will be changed on the subject site, the impact of the variance is minimum.

- Variance 4: The subject site is 2,855 square feet smaller than the minimum lot area required by the code. The proposed site plan indicates two accesses to the site, one on Nova Drive and one on University Drive. The size of the parcel creates the hardship for the placement of the dumpster enclosure to accommodate the waste truck pick up while meets the ten-foot landscaping buffer requirement at the north property line. The applicant is requesting to reduce the landscaping buffer for 95 lineal feet adjacent to the Longhorn restaurant site to 4.9 feet with Cocoplum hedges. There is a five-foot landscaping area with canopy trees along the property line on the Longhorn restaurant site. The combined 9.9-foot landscaping area with Cocoplum hedges will provide reasonable buffer and minimize the impact of the variance to the adjacent parking lot on the Longhorn restaurant site.

Finding of Facts

Variances:

Section 12-309(B)(1):

The following findings of facts apply to the variance request.

(a) There is a special circumstance or condition applying to the land or building for which the variance is sought, which circumstance or condition is peculiar to such land or building and does not apply generally to land or building in the same district, and that said circumstance or condition is such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building for which the variance is sought. The alleged hardship is not self-created by persons having an interest in the property.

The subject site has been used as a gas station with a convenience store since 1980. The variances to allow the redevelopment of the site as a gas station and convenient store will have minimum impact over the existing gas station. The parcel has been platted and the structures are legal-nonconforming. Without the variances, the site is prevented from improving and meeting the current Land Development Code. The hardship is not self-created.

(b) Granting of the variance is necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.

Granting of the variance will allow the applicant to redesign the site and update the site to meet the current code. The variances are the minimum variances to allow the redevelopment to occur.

(c) Granting of the requested variances will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Granting of the variances will allow the redevelopment to occur and the site will be substantially improved. Although the landscaping buffer adjacent to the parking lot on the Longhorn restaurant site will be reduced to 4.9 feet, the impact to the adjacent property is minimized by the proposed Cocoplum hedges and existing five-foot landscaping area on the Longhorn property. The existence of the 25-foot

easement and the wall, along with the proposed landscaping will minimize the impact of the variance to the residential area.

Granting of the variance will not be injurious to the neighborhood but improving the overall appearance of the neighborhood.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and the Town Council for further consideration.

Planning & Zoning Board Recommendation

At the August 13, 2003 Planning and Zoning Board meeting, the following motions were made:

Mr. McLaughlin made a motion, seconded by Ms. Turin, to approve Variance 1 subject to working with the adjacent property owners to provide landscaping on the other side of the access road (Motion carried 3-1 with Ms. Lee being opposed).

Ms. Lee made a motion, seconded by Ms. Turin, to deny Variance 2 (Motion carried 3-1 with Mr. McLaughlin being opposed).

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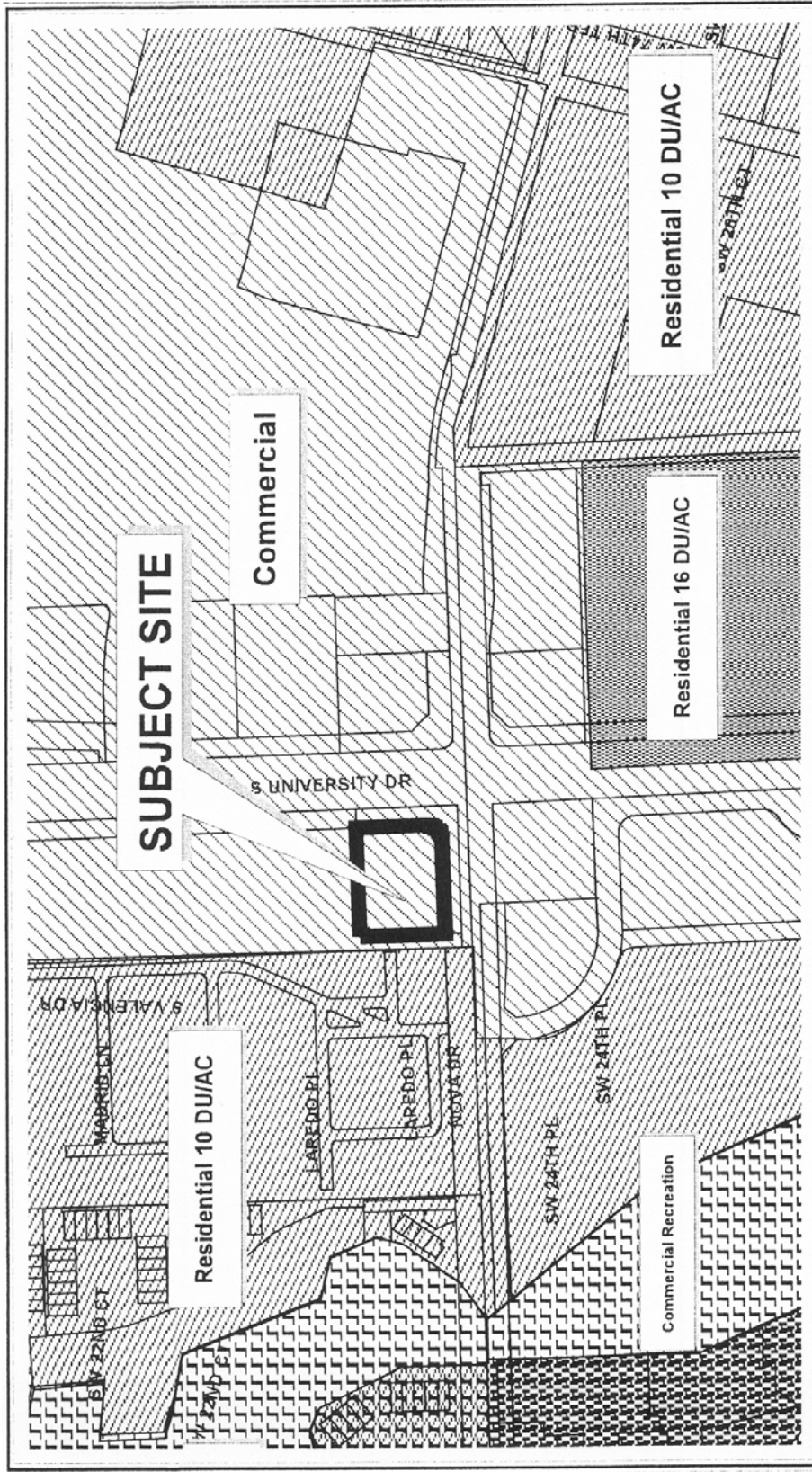
Town Council Actions

Exhibits

Justification letter, Subject Site Map, Land Use Map and Aerial

Prepared by: _____

Reviewed by: _____



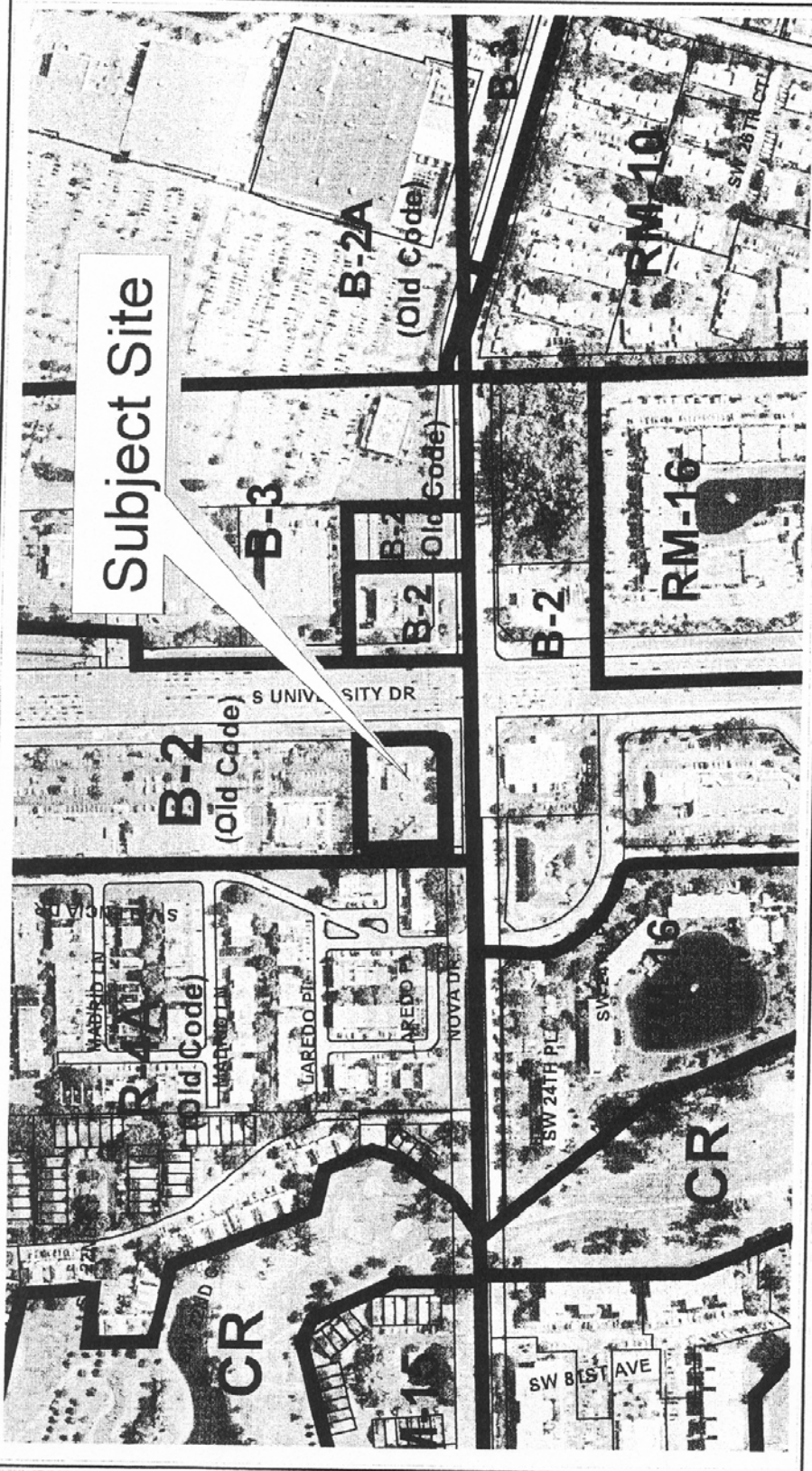
VARIANCE **V 5-2-03** **Future Land Use Map**

Prepared By: AYF
 Date Prepared: 6/24/03



300 0 300 600 Feet

Planning & Zoning Division - GIS



Date Flown:
12/31/00



Planning & Zoning Division - GIS



VARIANCE **V 5-2-03** **Zoning and Aerial Map**

Prepared By: AYF
Date Prepared: 6/24/03

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